IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Second Appeal No. 1632 of 2001

Prabhulal aged 95 years
S/o Late Sri Nathulal
R/o Village Bhori Pargana & Tehsil Roorkee
District Haridwar ...Appellant

Vs

1. Tahir S/o Ali Hassan
2. Faiaz S/o Ali Hassan
3. Ayaz S/o Ali Hassan
4. Mumtaz S/o of Tahir
5. Dawood S/o of Tahir
6. Ayoob S/o of Tahir

All R/o Village Bhori
Paragana & Tehsil Roorkee
District Haridwar .....Respondents

Sri A.K. Sharma, learned counsel for the appellant

Hon'ble B.C. Kandpal, J.

This second appeal has been preferred by the appellant against the judgment and decree dated 05.10.2001 passed by Civil Judge (Senior Division), Roorkee in Civil Appeal No. 40 of 1998 arising out of the judgment and decree dated 03.09.1998 passed by Civil Judge (Junior Division), Roorkee in Original Suit No. 55 of 1987.

2. Brief facts of the case are that the plaintiff/appellant filed a suit for permanent injunction before the Civil Judge (Junior Division), Roorkee who partly decreed the suit vide judgment and decree dated 03.09.1998.

3. Feeling aggrieved by the aforesaid judgment and decree the plaintiff/appellant preferred an appeal before the appellate court which was dismissed vide judgment and decree dated 05.10.1998.

4. Feeling aggrieved by the aforesaid judgments and decree. The appellant preferred an appeal before this Court.

5. Heard Sri A.K. Sharma, learned counsel for the appellant and perused the record.

6. Having considered the arguments advanced by learned counsel for the appellant and after perusing the entire evidence on record, I am of the view that, this second appeal is concluded by concurrent finding of facts, I, therefore, do not find any ground to interfere in the impugned judgments and orders passed by the courts below. Both the courts below have recorded concurrent finding of fact which cannot be interfered at the stage of second appeal. I also do not find any substantial question of l aw involved in this case.

7. The second appeal lacks merit and is liable to be dismissed.

8. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

02.12.2006
ASWAL